



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

1410 North Hilton • Boise, Idaho 83706 • (208) 373-0502

C.L. "Butch" Otter, Governor
Toni Hardesty, Director

July 28, 2010

Dennis McLerran
Regional Administrator
MS RA-140
U.S. EPA Region 10
1200 Sixth Avenue
Seattle, WA 98101

RE: Greenhouse Gas Tailoring Rule Implementation

Dear Administrator McLerran:

This letter is written in response to the United States Environmental Protection Agency's (EPA's) request to the states for information regarding adoption and implementation of the term "subject to regulation" and the greenhouse gas tailoring rule. See 75 Fed. Reg. 31514, 31525 (June 3, 2010).

The state of Idaho updates the incorporation by reference of federal requirements as of July 1 on an annual basis. Upon public comment and approval by the Board of Environmental Quality, the updated incorporated rules are considered pending until finally approved by the Idaho legislature, effective sine die.

Idaho Code Section 67-5229(3) notes that incorporated material must be identified with specificity including the date the code, standard or rule was published approved or became effective. Amendments to the material must be processed in accordance with rulemaking requirements of Idaho's Administrative Procedures Act. Consequently, the state of Idaho will not interpret state law under IDAPA 58.01.01.107 .03.d., which currently incorporates 42 U.S.C. 52 revised as of July 1, 2009, to include greenhouse gases as "subject to regulation" under 42 U.S.C. 52.21(b)(50)(iv) until final approval of the updated incorporation by reference rules by the Idaho legislature, which occurs sine die, expected end of March or early April, 2011. The greenhouse gas tailoring rule incorporation by reference is subject to the same schedule, expected to be finally approved end of March 2011 or early April, 2011.

If you have questions, please feel free to contact Martin Bauer, DEQ's Air Quality Program Administrator, at 373-0552.

Sincerely,

A handwritten signature in blue ink, appearing to read "Toni", followed by a stylized flourish.

Toni Hardesty
Director

cc: Martin Bauer